

**REMARKS**

The claims in this case were restricted into three Groups. Applicant has provisionally elected Group I, Claims 1-18. The Restriction Requirement is traversed.

For restriction to be proper, a burden must be placed on the Office in examining all claims. Applicant respectfully submits that assuming the methods in Groups I and II and the kits in Group III are materially different, the search for these methods and kits would occur in the same classes/subclasses given the fact that the compounds used in Group I and II methods are essentially the same compounds used in Group III kits. Thus, the same classes/subclasses would be searched because the same compounds are relevant to Group I, Group II and Group III claims -- no burden would be placed on the Office in searching and/or examining all claims together.

This is particularly true given that the present application contains only one independent claim, claim 1. Under such circumstances, common examination of all such related claims directed to essentially the same compounds is appropriate. See, MPEP 821.04.

That these claims are directed to sufficiently similar subject matter to allow common examination is further demonstrated by the fact that the methods of claim 19 (Group II) are preferred methods of the methods of claim I (Group I).

For all of the above reasons, the Restriction Requirement is traversed.

Moreover, Applicant has provisionally elected, for search and examination purposes only, the specie of polyorganosiloxane comprising aryl groups linked directly to the silicon atoms of the siloxane skeleton, particularly phenylpropylsilsesquioxane as disclosed in example 1 of the present application (polymer) and direct dye (active principle). However, the election of species requirement is traversed.

The reason underlying the designation by the Office of the different polymers and active principles as being patentably distinct is not explained in sufficient detail or by example, and as such represents only a conclusion, particularly in view of the fact that the identified specie are related by operation and/or effect (for example, the polymers have chemical and physical similarities which allow them to function similarly such as, for example, encapsulating active material). Accordingly, division of each of these specie is unsupported and improper. See, MPEP §§ 802.01 and 806.04 (b).

Moreover, for an Election of Species requirement to be proper, a burden must be placed on the Office in examining all species. Applicant respectfully submits that no such burden exists in this case.

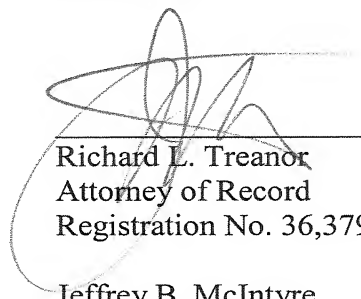
Applicant respectfully submits that even assuming for the purposes of argument that the polymers and active principles are materially different from each other, the search for all such polymers and active principles would occur in the same classes/subclasses. Thus, no burden would be placed on the Office in searching and/or examining all claims together. Accordingly, the Election of Species Requirement is traversed.

Application No. 10/724,826  
Restriction Response

Applicant respectfully submits that the above-identified application is now in  
condition for examination on the merits.

Respectfully submitted,

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